

UNITED STATES DISTRICT COURT  
For the District of Massachusetts

JAN FIVE CORP. d/b/a )  
ALEXANDRA CONSTRUCTION, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
TOWN OF WESTON and )  
DESIGN PARTNERSHIP OF )  
CAMBRIDGE, )  
 )  
Defendants )  
 )

C.A. No. 05-CV-11166-EFH

TOWN OF WESTON, )  
 )  
Third-Party Plaintiff )  
 )  
v. )  
 )  
THE DESIGN PARTNERSHIP OF )  
CAMBRIDGE, )  
 )  
Third-Party Defendant )  
 )

**THE DESIGN PARTNERSHIP OF CAMBRIDGE, INC.'S ANSWER TO TOWN  
OF WESTON'S THIRD-PARTY COMPLAINT**

The third-party defendant, Design Partnership of Cambridge, Inc. ("DPC") responds as follows to the allegations set forth in the Third-Party Complaint of the Town of Weston ("Weston").

1. DPC lacks sufficient information or belief to either admit or deny the allegations of this paragraph and leaves Weston to its proof.
2. Admitted.

3. DPC admits that it had a contract with Weston to provide certain services in connection with the County and Woodland elementary schools in Weston Massachusetts. DPC denies all allegations in this paragraph that are inconsistent with the terms of its contract. The terms of the contract speak for themselves.
4. DPC lacks sufficient information or belief to either admit or deny the allegations of this paragraph and leaves Weston to its proof.
5. DPC lacks sufficient information or belief to either admit or deny the allegations of this paragraph and leaves Weston to its proof.
6. DPC lacks sufficient information or belief to either admit or deny the allegations of this paragraph and leaves Weston to its proof.
7. Admitted.
8. DPC lacks sufficient information or belief to either admit or deny the allegations of this paragraph and leaves Weston to its proof.
9. Admitted.
10. DPC lacks sufficient information or belief to either admit or deny the allegations of this paragraph and leaves Weston to its proof.
11. DPC lacks sufficient information or belief to either admit or deny the allegations of this paragraph and leaves Weston to its proof.
12. DPC admits that this action has been filed. The various pleadings filed in this action speak for themselves and DPC denies any allegations in this paragraph inconsistent with those pleadings.
13. DPC lacks sufficient information or belief to either admit or deny the allegations of this paragraph and leaves Weston to its proof.

14. DPC lacks sufficient information or belief to either admit or deny the allegations of this paragraph and leaves Weston to its proof.

15. Denied.

### **Count I**

16. Denied.

### **Affirmative Defenses**

1. Weston has failed to state a claim upon which relief may be granted.
2. If Weston has been damaged as alleged, then said damage results from the acts and/or omissions of persons or entities for whom DPC is neither legally liable nor responsible.
3. Weston's claims are barred by the statute of limitations and/or statute of repose.
4. Weston's claims are barred by estoppel.
5. Weston's claims are barred by failure to mitigate damages.
6. Weston's claims are barred by the doctrine of unclean hands.
7. Weston's claims are barred by the doctrine of waiver.
8. If Weston was damaged as alleged, then such damage resulted from the negligent acts and/or omissions of Weston and/or the plaintiff. Accordingly, Weston is either barred from recovery or recovery must be reduced proportionate to the extent of Weston's contributory negligence and/or the contributory negligence of others.

WHEREFORE, DPC requests judgment enter in its favor, that it be awarded its attorneys' fees and costs expended in connection with the matter and such other relief as the Court deems proper.

Respectfully submitted,  
DESIGN PARTNERSHIP OF CAMBRIDGE,  
By its attorneys,

/s/ Brian C. Newberry  
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Dated: June 26<sup>th</sup>, 2006

**CERTIFICATE OF SERVICE**

I Brian C. Newberry certify that on this 26<sup>th</sup> day of June, 2006, I served the foregoing document by mailing a copy thereof, postage pre-paid to:

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/s/ Brian C. Newberry

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